

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Jason David Pitts,)
Plaintiff,) C/A No. 8:12-1500-TMC-JDA
v.)
Chuck Wright; Major Neal Urch; Officer)
Pilgrim; Corporal Church; Dr. Bianco,)
Medical Department,)
Defendants.)

)

ORDER

Plaintiff, a state prisoner proceeding pro se, filed this action pursuant to 28 U.S.C. § 1983. This matter is before the court for review of the Report and Recommendation of the United States Magistrate Judge Jacquelyn D. Austin made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report and Recommendation. (Dkt. # 61 at 4). However, Plaintiff filed no objections to the Report and Recommendation. In fact, on November 13, 2012, the copy of the Report and Recommendation mailed to Plaintiff was returned from the U.S. Postmaster marked "Undeliverable." Plaintiff has previously been ordered to keep the Clerk of Court

advised in writing if his address changes and he has not complied with that order. (Dkt. # 9).

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation (Dkt. # 61) and incorporates it herein. It is therefore **ORDERED** that the Complaint in the above captioned case is **DISMISSED** without prejudice as to Defendant Dr. Bianco for failure of service of process.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
November 19, 2012

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.